

# HOUSE . . . . . No. 1137

By Representative Hynes of Marshfield and Senator Tolman, joint petition of Steven A. Tolman and others for legislation to establish a health care trust for the Commonwealth. Health Care Financing.

## The Commonwealth of Massachusetts

### PETITION OF:

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In the Year Two Thousand and Seven.

### AN ACT TO ESTABLISH THE MASSACHUSETTS HEALTH CARE TRUST.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 Preamble.
- 2 The foundation for a productive and healthy Massachusetts is a
- 3 health care system that provides equal access to quality health care
- 4 for all its residents. Massachusetts spends more on health care per
- 5 capita than any other state or country in the world, causing undue
- 6 hardship for the state, municipalities, businesses, and residents, but
- 7 without achieving universal access to quality health care. The Health
- 8 Care Trust will allow us to achieve and sustain the three main pillars
- 9 of a just, efficient health care system: — cost control and afford-
- 10 ability, universal access, and high quality medical care.

## 11 (a) COST CONTROL AND AFFORDABILITY

12 Controlling costs is the most important component of establishing  
13 a sustainable health care system for the Commonwealth. The Health  
14 Care Trust will control costs by establishing a global budget, by  
15 achieving significant savings on administrative overhead through  
16 consolidating the financing of our health care system, by bulk pur-  
17 chasing of pharmaceuticals and medical supplies, and by more effi-  
18 cient use of our health care facilities. The present fragmented health  
19 care system also leads to a lack of prevention. By integrating serv-  
20 ices and removing barriers to access, the Health Care Trust will lead  
21 to early detection and intervention, often avoiding more serious ill-  
22 nesses and more costly treatment.

## 23 (b) UNIVERSAL EQUITABLE ACCESS

24 Hundreds of thousands of Massachusetts residents still lack health  
25 insurance coverage of any sort. Even more residents are covered by  
26 plans requiring high deductibles and co-payments that make medical  
27 care unaffordable even for the insured. The Health Care Trust will  
28 provide health care access to all residents without regard to financial  
29 status, ethnicity, gender, previous health problems, or geographic  
30 location. Coverage will be continuous and affordable for individuals  
31 and families, since there will be no financial barriers to access such  
32 as co-pays or deductibles.

## 33 (c) QUALITY OF CARE

34 The World Health Organization rates health outcomes in the  
35 United States health care system lower than those of almost all other  
36 industrialized countries, and a number of developing countries as  
37 well. Poor health outcomes result from the lack of universal access,  
38 the lack of oversight on quality due to the fragmentation and com-  
39 plexity of our health care system, and the frequent lack of preventive  
40 and comprehensive care benefits offered under commercial health  
41 plans. The Trust will reduce errors through information technology,  
42 improve medical care by eliminating much of the present adminis-  
43 trative complexity, and emphasize culturally competent outreach and  
44 care. It will provide for input from patients on the functioning of the  
45 health delivery system.

## 46 Section 2. Definitions.

47 The following words and phrases as used in this chapter shall  
48 have the following meanings, except where the context clearly

49 requires otherwise:—

50 “Board” means the board of trustees of the Massachusetts Health  
51 Care Trust.

52 “Employer” means every person, partnership, association, corpo-  
53 ration, trustee, receiver, the legal representatives of a deceased  
54 employer and every other person, including any person or corpora-  
55 tion operating a railroad and any public service corporation, the  
56 state, county, municipal corporation, township, school or road,  
57 school board, board of education, curators, managers or control com-  
58 mission, board or any other political subdivision, corporation, or  
59 quasi-corporation, or city or town under special charter, or under the  
60 commission for of government, using the service of another for pay  
61 in the Commonwealth.

62 “Executive Director” means the executive director of the Massa-  
63 chusetts Health Care Trust.

64 “Health care” means care provided to a specific individual by a  
65 licensed health care professional to promote physical and mental  
66 health, to treat illness and injury and to prevent illness and injury.

67 “Health care facility” means any facility or institution, whether  
68 public or private, proprietary or nonprofit, that is organized, main-  
69 tained, and operated for health maintenance or for the prevention,  
70 diagnosis, care and treatment of human illness, physical or mental,  
71 for one or more persons.

72 “Health care provider” means any professional person, medical  
73 group, independent practice association, organization, health care  
74 facility, or other person or institution licensed or authorized by law  
75 to provide professional health care services to an individual in the  
76 Commonwealth.

77 “Health maintenance organization” means a provider organization  
78 that meets the following criteria:—

79 (1) Is fully integrated operationally and clinically to provide a  
80 broad range of health care services;

81 (2) Is compensated using capitation or overall operating budget;  
82 and

83 (3) Provides health care services primarily through direct care  
84 providers who are either employees or partners of the organization,  
85 or through arrangements with direct care providers or one or more  
86 groups of physicians, organized on a group practice or individual  
87 practice basis.

88 “Professional advisory committee” means a committee of advi-  
89 sors appointed by a director of a division of the Massachusetts  
90 Health Care Trust.

91 “Resident” means a person who lives in Massachusetts as evi-  
92 denced by an intent to continue to live in Massachusetts and to  
93 return to Massachusetts if temporarily absent, coupled with an act or  
94 acts consistent with that intent. The Trust shall adopt standards and  
95 procedures for determining whether a person is a resident. Such  
96 rules shall include:—

97 (1) a provision requiring that the person seeking resident status  
98 has the burden of proof in such determination;

99 (2) a provision requiring reasonable durational domicile require-  
100 ments not to exceed 2 years for long term care and 90 days for all  
101 other covered services;

102 (3) a provision that a residence established for the purpose of  
103 seeking health care shall not by itself establish that a person is a resi-  
104 dent of the Commonwealth; and

105 (4) a provision that, for the purposes of this chapter, the terms  
106 “domicile” and “dwelling place” are not limited to any particular  
107 structure or interest in real property and specifically includes home-  
108 less individuals with the intent to live and return to Massachusetts if  
109 temporarily absent coupled with an act or acts consistent with that  
110 intent.

111 “Secretary” means the secretary of the executive office of health  
112 and human services.

113 “Trust” means the Massachusetts Health Care Trust established in  
114 section five of this chapter.

115 “Trust Fund” means the Massachusetts Health Care Trust Fund  
116 established in section nineteen of this chapter.

117 Section 3. Establishment of the Massachusetts Health Care Trust.

118 There is hereby created an independent body, politic and corpo-  
119 rate, to be known as the Massachusetts Health Care Trust, here-  
120 inafter referred to as the Trust, to function as the single public  
121 agency, or “single payer”, responsible for the collection and dis-  
122 bursement of funds required to provide health care services for every  
123 resident of the Commonwealth. The Trust is hereby constituted a  
124 public instrumentality of the Commonwealth and the exercise by the  
125 Trust of the powers conferred by this chapter shall be deemed and  
126 held the performance of an essential governmental function. The

127 Trust is hereby placed in the Executive Office of the Health and  
128 Human Services but shall not be subject to the supervision or control  
129 of said office or of any board, bureau, department or other agency of  
130 the Commonwealth except as specifically provided by this Chapter.

131 The provisions of Chapter two hundred sixty-eight A shall apply  
132 to all trustees, officers and employees of the Trust, except that the  
133 Trust may purchase from, contract with or otherwise deal with any  
134 organization in which any trustee is interested or involved:— pro-  
135 vided, however, that such interest or involvement is disclosed in  
136 advance to the trustees and recorded in the minutes of the proceed-  
137 ings of the Trust:— and provided, further, that a trustee having such  
138 interest or involvement may not participate in any decision relating  
139 to such organization.

140 Neither the Trust nor any of its officers, trustees, employees, con-  
141 sultants or advisors shall be subject to the provisions of Section three  
142 B of Chapter seven, Sections nine A, forty-five, forty-six and fifty-  
143 two of Chapter thirty, Chapter thirty B or Chapter thirty-one: — pro-  
144 vided, however, that in purchasing goods and services, the  
145 corporation shall at all times follow generally accepted good busi-  
146 ness practices.

147 All officers and employees of the Trust having access to its cash  
148 or negotiable securities shall give bond to the Trust at its expense, in  
149 such amount and with such surety as the board of trustees shall pre-  
150 scribe. The persons required to give bond may be included in one or  
151 more blanket or scheduled bonds.

152 Trustees, officers and advisors who are not regular, compensated  
153 employees of the Trust shall not be liable to the Commonwealth, to  
154 the Trust or to any other person as a result of their activities, whether  
155 ministerial or discretionary, as such trustees, officers or advisors  
156 except for willful dishonesty or intentional violations of law. The  
157 board of the Trust may purchase liability insurance for trustees, offi-  
158 cers, advisors and employees and may indemnify said persons  
159 against the claims of others.

160 Section 4. Powers.

161 The Trust shall have the following powers:—

162 (1) to make, amend and repeal by-laws, rules and regulations for  
163 the management of its affairs;

164 (2) to adopt an official seal;

165 (3) to sue and be sued in its own name;

166 (4) to make contracts and execute all instruments necessary or  
167 convenient for the carrying on of the purposes of this chapter;

168 (5) to acquire, own, hold, dispose of and encumber personal, real  
169 or intellectual property of any nature or any interest therein;

170 (6) to enter into agreements or transactions with any federal, state  
171 or municipal agency or other public institution or with any private  
172 individual, partnership, firm, corporation, association or other entity;

173 (7) to appear on its own behalf before boards, commissions,  
174 departments or other agencies of federal, state or municipal govern-  
175 ment;

176 (8) to appoint officers and to engage and employ employees,  
177 including legal counsel, consultants, agents and advisors and pre-  
178 scribe their duties and fix their compensations;

179 (9) to establish advisory boards;

180 (10) to procure insurance against any losses in connection with its  
181 property in such amounts, and from such insurers, as may be neces-  
182 sary or desirable;

183 (11) to invest any funds held in reserves or sinking funds, or any  
184 funds not required for immediate disbursement, in such investments  
185 as may be lawful for fiduciaries in the Commonwealth pursuant to  
186 Sections thirty-eight and thirty-eight A of Chapter twenty nine.

187 (12) to accept, hold, use, apply, and dispose of any and all dona-  
188 tions, grants, bequests and devises, conditional or otherwise, of  
189 money, property, services or other things of value which may be  
190 received from the United States or any agency thereof, any govern-  
191 mental agency, any institution, person, firm or corporation, public or  
192 private, such donations, grants, bequests and devises to be held,  
193 used, applied or disposed for any or all of the purposes specified in  
194 this chapter and in accordance with the terms and conditions of any  
195 such grant. A Receipt of each such donation or grant shall be  
196 detailed in the annual report of the Trust; such annual report shall  
197 include the identity of the donor, lender, the nature of the transaction  
198 and any condition attaching thereto;

199 (13) to do any and all other things necessary and convenient to  
200 carry out the purposes of this chapters.

201 Section 5. Purposes.

202 The purposes of the Massachusetts Health Care Trust shall  
203 include the following:—

204 (1) To guarantee every Massachusetts resident access to high

205 quality health care by:—

206 (a) providing reimbursement for all medically appropriate health  
207 care services offered by the eligible provider or facility of each resi-  
208 dent's choice;

209 (b) funding capital investments for adequate health care facilities  
210 and resources statewide

211 (2) To save money by replacing the current mixture of public and  
212 private health care plans with a uniform and comprehensive health  
213 care plan available to every Massachusetts resident;

214 (3) To replace the redundant private and public bureaucracies  
215 required to support the current system with a single administrative  
216 and payment mechanism for covered health care services;

217 (4) To use administrative and other savings to:—

218 (a) expand covered health care services;

219 (b) contain health care cost increases; and

220 (c) create provider incentives to innovate and compete by  
221 improving health care service quality and delivery to patients;

222 (5) To fund, approve and coordinate capital improvements in  
223 excess of a threshold to be determined annually by the executive  
224 director to qualified health care facilities to:—

225 (a) avoid unnecessary duplication of health care facilities and  
226 resources; and

227 (b) encourage expansion or location of health care providers and  
228 health care facilities in underserved communities;

229 (6) To assure the continued excellence of professional training  
230 and research at Massachusetts health care facilities;

231 (7) To achieve measurable improvement in health care outcomes;

232 (8) To prevent disease and disability and maintain or improve  
233 health and functionality;

234 (9) To ensure that all Massachusetts residents receive care appro-  
235 priate to their special needs as well as care that is culturally and lin-  
236 guistically competent;

237 (10) To increase satisfaction with the health care system among  
238 health care providers, consumers, and the employers and employees  
239 of the Commonwealth;

240 (11) To implement policies which strengthen and improve cultur-  
241 ally and linguistically sensitive care;

242 (12) To develop an integrated population-based health care data-  
243 base to support health care planning; and

244 (13) To fund training and re-training programs for professional  
245 and non-professional workers in the health care sector displaced as a  
246 direct result of implementation of this chapter.

247 Section 6. Board of Trustees; Composition; Powers and Duties.

248 The Trust shall be governed by a board of trustees with twenty-  
249 three members. The board shall include the secretary of health and  
250 human services, the secretary of administration and finance, and the  
251 commissioner of public health.

252 The Governor shall appoint: — three trustees nominated by orga-  
253 nizations of health care professionals who deliver direct patient care;  
254 one nominated by a statewide organization of health care facilities;  
255 one nominated by an organization representing non-health care  
256 employers; and a health care economist.

257 The Attorney General shall appoint: — one trustee nominated by  
258 a statewide labor organization; two trustees nominated by statewide  
259 organizations who have a record of advocating for universal single  
260 payer health care in Massachusetts; one nominated by an organiza-  
261 tion representing Massachusetts senior citizens; one nominated by a  
262 statewide organization defending the rights of children; and one  
263 nominated by an organization providing legal services to low-  
264 income clients.

265 In addition, eight trustees, who are eligible to receive the benefits  
266 of the Massachusetts Health Care Trust but who do not fall into any  
267 of the aforementioned categories, shall be elected by the citizens of  
268 the Commonwealth, one from each of the Governor's Council dis-  
269 tricts. Candidates shall run in accordance with Fair Campaign  
270 Financing Rules. In order to provide for staggered terms, from the  
271 first eight to be elected, two shall be elected for two years, three for  
272 three years, and three for four years. Afterwards, all elected trustees  
273 shall be elected for four-year terms. All elected trustees shall be eli-  
274 gible for reelection, which would enable them to serve a maximum  
275 of eight consecutive years.

276 Each appointed trustee shall serve a term of five years: — pro-  
277 vided, however, that initially four appointed trustees shall serve three  
278 year terms, four appointed trustees shall serve four year terms, and  
279 four appointed trustees shall serve five year terms. The initial  
280 appointed trustees shall be assigned to a three, four, or five year term  
281 by lot. Any person appointed to fill a vacancy on the board shall  
282 serve for the unexpired term of the predecessor trustee. Any



283 appointed trustee shall be eligible for reappointment. Any appointed  
284 trustee may be removed from his appointment by the governor for  
285 just cause.

286 The board shall elect a chair from among its members every two  
287 years. Ten trustees shall constitute a quorum and the affirmative vote  
288 of a majority of the trustees present and eligible to vote at a meeting  
289 shall be necessary for any action to be taken by the board. The board  
290 of trustees shall meet at least ten times each year and will have final  
291 authority over the activities of the Trust.

292 The trustees shall be reimbursed for actual and necessary  
293 expenses and loss of income incurred for each full day serving in the  
294 performance of their duties to the extent that reimbursement of those  
295 expenses is not otherwise provided or payable by another public  
296 agency or agencies. For purposes of this section, “full day of  
297 attending a meeting” shall mean presence at, and participation in, not  
298 less than 75 percent of the total meeting time of the board during any  
299 particular 24-hour period.

300 No member of the board of trustees shall make, participate in  
301 making, or in any way attempt to use his or her official position to  
302 influence a governmental decision in which he or she knows or has  
303 reason to know that he or she, or a family member or a business  
304 partner or colleague has a financial interest.

305 In general, the board is responsible for ensuring universal access  
306 to high quality, affordable health care for every resident of the Com-  
307 monwealth. The Board shall specifically address all of the  
308 following:—

309 (1) Establish policy on medical issues, population-based public  
310 health issues, research priorities, scope of services, expanding access  
311 to care, and evaluation of the performance of the system;

312 (2) Evaluate proposals from the executive director and others for  
313 innovative approaches to health promotion, disease and injury pre-  
314 vention, health education and research, and health care delivery.

315 (3) Establish standards and criteria by which requests by health  
316 facilities for capital improvements shall be evaluated.

317 Section 7. Executive Director; Purpose and Duties.

318 The board of trustees shall hire an executive director who shall be  
319 the executive and administrative head of the Trust and shall be  
320 responsible for administering and enforcing the provisions of law  
321 relative to the Trust.

322 The executive director may, as s/he deems necessary or suitable  
323 for the effective administration and proper performance of the duties  
324 of the Trust and subject to the approval of the board of trustees, do  
325 the following:—

326 (1) adopt, amend, alter, repeal and enforce, all such reasonable  
327 rules, regulations and orders as may be necessary;

328 (2) appoint and remove employees and consultants: — provided,  
329 however, that, subject to the availability of funds in the Trust, at  
330 least one employee shall be hired to serve as director of each of the  
331 divisions created in sections eight through twelve, inclusive, of this  
332 chapter.

333 The executive director shall:—

334 (1) establish an enrollment system that will ensure that all eligible  
335 Massachusetts residents are formally enrolled;

336 (2) utilize the purchasing power of the state to negotiate price dis-  
337 counts for prescription drugs and all needed durable and nondurable  
338 medical equipment and supplies;

339 (3) negotiate or establish terms and conditions for the provision of  
340 high quality health care services and rates of reimbursement for such  
341 services on behalf of the residents of the Commonwealth;

342 (4) develop prospective and retrospective payment systems for  
343 covered services to provide prompt and fair payment to eligible  
344 providers and facilities;

345 (5) oversee preparation of annual operating and capital budgets  
346 for the statewide delivery of health care services;

347 (6) oversee preparation of annual benefits reviews to determine  
348 the adequacy of covered services; and

349 (7) prepare an annual report to be submitted to the governor, the  
350 president of the senate and speaker of the house of representatives  
351 and to be easily accessible to every Massachusetts resident.

352 The executive director of the trust may utilize and shall coordi-  
353 nate with the offices, staff and resources of any agencies of the exec-  
354 utive branch including, but not limited to, the executive office of  
355 health and human services and all line agencies under its jurisdic-  
356 tion, the division of health care finance and policy, the department of  
357 revenue, the insurance division, the group insurance commission, the  
358 department of employment and training, the industrial accidents  
359 board, the health and educational finance authority, and all other  
360 executive agencies.

361 Section 8. Regional Division; Director, Offices, Purposes and  
362 Duties.

363 There shall be a regional division within the Trust which shall be  
364 under the supervision and control of a director. The powers and  
365 duties given the director in this chapter and in any other general or  
366 special law shall be exercised and discharged subject to the control  
367 and supervision of the executive director of the Trust. The director  
368 of the regional division shall be appointed by the executive director  
369 of the Trust, with the approval of the board of trustees, and may,  
370 with like approval, be removed. The director may, at his/her discre-  
371 tion, establish a professional advisory committee to provide expert  
372 advice: — provided, however, that such committee shall have at  
373 least 25% consumer representation.

374 The Trust shall have a reasonable number of regional offices  
375 located throughout the state. The number and location of these  
376 offices shall be proposed to the executive director and board of  
377 trustees by the director of the regional division after consultation  
378 with the directors of the planning, administration, quality assurance  
379 and information technology divisions and consideration of conve-  
380 nience and equity. The adequacy and appropriateness of the number  
381 and location of regional offices shall be reviewed by the board at  
382 least once every three years.

383 Each regional office shall be professionally staffed to perform  
384 local outreach and informational functions and to respond to ques-  
385 tions, complaints, and suggestions from health care consumers and  
386 providers. Each regional office shall hold hearings annually to deter-  
387 mine unmet health care needs and for other relevant reasons.  
388 Regional office staff shall immediately refer evidence of unmet  
389 needs or of poor quality care to the director of the regional division  
390 who will plan and implement remedies in consultation with the  
391 directors of the administrative, planning, quality assurance, and  
392 information technology divisions.

393 Section 9. Administrative Division; Director; Purpose and Duties.

394 There shall be an administrative division within the Trust which  
395 shall be under the supervision and control of a director. The powers  
396 and duties given the director in this chapter and in any other general  
397 or special law shall be exercised and discharged subject to the direc-  
398 tion, control and supervision of the executive director of the Trust.  
399 The director of the administrative division shall be appointed by the

400 executive director of the Trust, with the approval of the board of  
401 trustees, and may, with like approval, be removed. The director may,  
402 at his/her discretion, establish a professional advisory committee to  
403 provide expert advice: — provided, however, that such committee  
404 shall have at least 25% consumer representation.

405 The administrative division shall have day-to-day responsibility  
406 for:—

407 (1) making prompt payments to providers and facilities for cov-  
408 ered services;

409 (2) collecting reimbursement from private and public third party  
410 payers and individuals for services not covered by this chapter or  
411 covered services rendered to non-eligible patients;

412 (3) developing information management systems needed for  
413 provider payment, rebate collection and utilization review;

414 (4) investing trust fund assets consistent with state law and  
415 section nineteen of this chapter;

416 (5) developing operational budgets for the Trust; and

417 (6) assisting the planning division to develop capital budgets for  
418 the Trust.

419 Section 10. Planning Division; Director; Purpose and Duties.

420 There shall be a planning division within the Trust which shall be  
421 under the supervision and control of a director. The powers and  
422 duties given the director in this chapter and in any other general or  
423 special law shall be exercised and discharged subject to the direc-  
424 tion, control and supervision of the executive director of the Trust.  
425 The director of the planning division shall be appointed by the exec-  
426 utive director of the Trust, with the approval of the board of trustees,  
427 and may, with like approval, be removed. The director may, at  
428 his/her discretion, establish a professional advisory committee to  
429 provide expert advice: — provided, however, that such committee  
430 shall have at least 25% consumer representation.

431 The planning division shall have responsibility for coordinating  
432 health care resources and capital expenditures to ensure all eligible  
433 participants reasonable access to covered services. The responsibili-  
434 ties shall include but are not limited to:—

435 (1) An annual review of the adequacy of health care resources  
436 throughout the Commonwealth and recommendations for changes.  
437 Specific areas to be evaluated include but are not limited to the  
438 resources needed for underserved populations and geographic areas,

439 for culturally and linguistically competent care, and for emergency  
440 and trauma care. The director will develop short term and long term  
441 plans to meet health care needs.

442 (2) An annual review of capital health care needs. Included in this  
443 evaluation, but not limited to it are recommendations for a budget  
444 for all health care facilities, evaluating all capital expenses in excess  
445 of a threshold amount to be determined annually by the executive  
446 director, and collaborating with local and statewide government and  
447 health care institutions to coordinate capital health planning and  
448 investment. The director will develop short term and long term plans  
449 to meet capital expenditure needs.

450 In making its review, the planning division shall consult with the  
451 regional offices of the Trust and shall hold hearings throughout the  
452 state on proposed recommendations. The division shall submit to the  
453 board of trustees its final review and recommendations by October 1  
454 of each year. Subject to board approval, the Trust shall adopt the rec-  
455 ommendations.

456 Section 11. Information Technology Division; Purpose & Duties.

457 There shall be an information technology division within the  
458 Trust which shall be under the supervision and control of a director.  
459 The powers and duties given the director in this chapter and in any  
460 other general or special law shall be exercised and discharged sub-  
461 ject to the direction, control and supervision of the executive director  
462 of the Trust. The director of the information technology division  
463 shall be appointed by the executive director of the Trust, with the  
464 approval of the board of trustees, and may, with like approval, be  
465 removed. The director may, at his/her discretion, establish a profes-  
466 sional advisory committee to provide expert advice: — provided,  
467 however, that such committee shall have at least 25% consumer rep-  
468 resentation.

469 The responsibilities of the information technology division shall  
470 include but are not limited to:—

471 (1) developing a confidential electronic medical records system  
472 and prescription system in accordance with laws and regulations to  
473 maintain accurate patient records and to simplify the billing process,  
474 thereby reducing medical errors and bureaucracy;

475 (2) developing a tracking system to monitor quality of care, estab-  
476 lish a patient data base and promote preventive care guidelines and  
477 medical alerts to avoid errors.

478 Notwithstanding that all billing shall be performed electronically,  
479 patients shall have the option of keeping any portion of their medical  
480 records separate from their electronic medical record. The informa-  
481 tion technology director shall work closely with the directors of the  
482 regional, administrative, planning and quality assurance divisions.  
483 The information technology division shall make an annual report to  
484 the board of trustees by October 1 of each year. Subject to board  
485 approval, the Trust shall adopt the recommendations.

486 Section 12. Quality Assurance Division; Director; Purpose and  
487 Duties.

488 There shall be a quality assurance division within the Trust which  
489 shall be under the supervision and control of a director. The powers  
490 and duties given the director in this chapter and in any other general  
491 or special law shall be exercised and discharged subject to the direc-  
492 tion, control and supervision of the executive director of the Trust.  
493 The director of the quality assurance division shall be appointed by  
494 the executive director of the Trust, with the approval of the board of  
495 trustees, and may, with like approval, be removed. The director may,  
496 at his/her discretion, establish a professional advisory committee to  
497 provide expert advice: — provided, however, that such committee  
498 shall have at least 25% consumer representation.

499 The quality assurance division shall support the establishment of  
500 a universal, best quality of standard of care with respect to:—

- 501 (a) appropriate staffing levels;
- 502 (b) appropriate medical technology;
- 503 (c) design and scope of work in the health workplace; and
- 504 (d) evidence-based best clinical practices.

505 The director shall conduct a comprehensive annual review of the  
506 quality of health care services and outcomes throughout the Com-  
507 monwealth and submit such recommendations to the board of  
508 trustees as may be required to maintain and improve the quality of  
509 health care service delivery and the overall health of Massachusetts  
510 residents. In making its reviews, the quality assurance division shall  
511 consult with the regional, administrative, and planning divisions and  
512 hold hearings throughout the state on quality of care issues. The  
513 division shall submit to the board of trustees its final review and rec-  
514 ommendations on how to ensure the highest quality health care  
515 service delivery by October 1 of each year. Subject to board  
516 approval, the Trust shall adopt the recommendations.

517 Section 13. Eligible Participants.

518 Those persons who shall be recognized as eligible participants in  
519 the Massachusetts Health Care Trust shall include:—

520 (1) all Massachusetts residents,

521 (2) all non-residents who:—

522 (a) work 20 hours or more per week in Massachusetts;

523 (b) pay all applicable Massachusetts personal income and payroll  
524 taxes;

525 (c) pay any additional premiums established by the Trust; and

526 (d) have complied with requirements (a) through (c) inclusive for  
527 at least 90 days

528 (3) All non-resident patients requiring emergency treatment for  
529 illness or injury: — provided, however, that the trust shall recoup  
530 expenses for such patients wherever possible.

531 Payment for emergency care of Massachusetts residents obtained  
532 out of state shall be at prevailing local rates. Payment for non-emer-  
533 gency care of Massachusetts residents obtained out of state shall be  
534 according to rates and conditions established by the executive  
535 director. The executive director may require that a resident be trans-  
536 ported back to Massachusetts when prolonged treatment of an emer-  
537 gency condition is necessary.

538 Visitors to Massachusetts shall be billed for all services received  
539 under the system. The executive director of the Trust may establish  
540 intergovernmental arrangements with other states and countries to  
541 provide reciprocal coverage for temporary visitors.

542 Section 14. Eligible Health Care Providers and Facilities.

543 Eligible health care providers and facilities shall include an  
544 agency, facility, corporation, individual, or other entity directly ren-  
545 dering any covered benefit to an eligible patient: — provided, how-  
546 ever, that the provider or facility:—

547 (1) is licensed to operate or practice in the Commonwealth;

548 (2) earns no more than 5% of its income by providing health care  
549 services covered by, but not paid for, by the trust:— provided, how-  
550 ever, that when such services are provided at an otherwise eligible  
551 health care facility, the provider must reimburse the Trust for an  
552 amount to be determined by the Trust but not less than the value of  
553 the fully loaded overhead cost of the provider's use of the facility  
554 plus the provider's share of the value of any public subsidies to the  
555 facility;

556 (3) furnishes a signed agreement that:—

557 (a) all health care services will be provided without discrimina-  
558 tion on the basis of age, sex, race, national origin, sexual orientation,  
559 income status or preexisting condition;

560 (b) the provider or facility will comply with all state and federal  
561 laws regarding the confidentiality of patient records and information;

562 (c) no balance billing or out-of-pocket charges will be made for cov-  
563 ered services unless otherwise provided in this chapter; and

564 (d) the provider or facility will furnish such information as may  
565 be reasonably required by the Trust for making payment, verifying  
566 reimbursement and rebate information, utilization review analyses,  
567 statistical and fiscal studies of operations and compliance with state  
568 and federal law;

569 (4) meets state and federal quality guidelines including guidance  
570 for safe staffing, quality of care, and efficient use of funds for direct  
571 patient care;

572 (5) is a public or non-profit institution that is not investor owned;

573 (6) is a non-profit health maintenance organization that actually  
574 delivers care in its facilities and employs clinicians on a salaried  
575 basis; and

576 (7) meets whatever additional requirements that may be estab-  
577 lished by the Trust.

578 Section 15. Prospective Payments to Eligible Health Care  
579 Providers and Facilities for Operating Expenses.

580 The Trust shall negotiate or establish, with eligible health care  
581 providers, health care facilities or groups of providers or facilities,  
582 payment rates for covered services. Such payment rates may be  
583 made on a fee for service, capitated system or overall operating  
584 budget basis and shall remain in effect for a period of 12 months  
585 unless sooner modified by the Trust. Except as provided in section  
586 sixteen of this chapter, reimbursement for covered services by the  
587 Trust shall constitute full payment for the services rendered.

588 Payment provided under this section can be used only to pay for  
589 the operating costs of eligible health care providers or facilities,  
590 including reasonable expenditures, as determined through budget  
591 negotiations with the Trust, for the maintenance, replacement and  
592 purchase of equipment. Payments for operating expenses shall not  
593 be used to finance capital expenditures; payment of exorbitant  
594 salaries; or for activities to assist, promote, deter or discourage union



595 organizing. Any prospective payments made in excess of actual  
596 costs for covered services shall be returned to the Trust. Prospective  
597 payment rates and schedules shall be adjusted annually to incorpo-  
598 rate retrospective adjustments.

599 Section 16. Retrospective Payments to Eligible Health Care  
600 Providers and Facilities for Operating Expenses.

601 The Trust shall provide for retrospective adjustment of payments  
602 to eligible health care facilities and providers to:—

603 (1) assure that payments to such providers and facilities reflect the  
604 difference between actual and projected utilization and expenditures  
605 for covered services; and

606 (2) protect health care providers and facilities who serve a dispro-  
607 portionate share of eligible participants whose expected utilization of  
608 covered health care services and expected health care expenditures  
609 for such services are greater than the average utilization and expen-  
610 diture rates for eligible participants statewide.

611 Payments provided under this section can be used only to pay for  
612 the operating costs of eligible health care providers and facilities,  
613 including reasonable expenditures, as determined through budget  
614 negotiations with the Trust, for the maintenance, replacement and  
615 purchase of equipment. Payments for operating costs shall not be  
616 used to finance capital expenditures; for the payment of exorbitant  
617 salaries; or for activities to assist, promote, deter or discourage union  
618 organizing.

619 Section 17. Prospective Funding for Capital Investments by Eli-  
620 gible Health Care Providers and Facilities.

621 The Trust, through its planning division, shall negotiate with eli-  
622 gible health care providers, health care facilities, or groups of  
623 providers or facilities, capital budgets to ensure adequate access to  
624 high quality health care for all Massachusetts residents. The Trust  
625 shall provide funding for payment of debt service on outstanding  
626 bonds as of the effective date of this Act and shall be the sole source  
627 of future funding, whether directly or indirectly, through the pay-  
628 ment of debt service, for capital expenditures by health care  
629 providers and facilities covered by the Trust in excess of a threshold  
630 amount to be determined annually by the executive director.

631 Section 18. Covered Benefits.

632 The Trust shall pay for all professional services provided by eli-  
633 gible providers and facilities to eligible participants needed to:—

634 (1) provide high quality, appropriate and medically necessary  
635 health care services;

636 (2) encourage reductions in health risks and increase use of pre-  
637 ventive and primary care services; and

638 (3) integrate physical health, mental and behavioral health and  
639 substance abuse services.

640 Covered benefits shall include all high quality health care deter-  
641 mined to be medically necessary or appropriate by the Trust,  
642 including, but not limited to, the following:—

643 (1) prevention, diagnosis and treatment of illness and injury,  
644 including laboratory, diagnostic imaging, inpatient, ambulatory and  
645 emergency medical care, blood and blood products, dialysis, mental  
646 health services, dental care, acupuncture, physical therapy, chiro-  
647 practic and podiatric services;

648 (2) promotion and maintenance of individual health through  
649 appropriate screening, counseling and health education;

650 (3) the rehabilitation of sick and disabled persons, including phys-  
651 ical, psychological, and other specialized therapies;

652 (4) prenatal, perinatal and maternity care, family planning, fer-  
653 tility and reproductive health care;

654 (5) home health care including personal care;

655 (6) long term care in institutional and community-based settings;

656 (7) hospice care;

657 (8) language interpretation and such other medical or remedial  
658 services as the Trust shall determine;

659 (9) emergency and other medically necessary transportation;

660 (10) the full scale of dental services, other than cosmetic den-  
661 tistry;

662 (11) basic vision care and correction, other than laser vision cor-  
663 rection for cosmetic purposes;

664 (12) hearing evaluation and treatment including hearing aids;

665 (13) prescription drugs; and

666 (14) durable and non-durable medical equipment, supplies and  
667 appliances.

668 No deductibles, co-payments, co-insurance, or other cost sharing  
669 shall be imposed with respect to covered benefits. Patients shall have  
670 free choice of participating physicians and other clinicians, hospitals,  
671 inpatient care facilities and other providers and facilities.

672 Prior to obtaining any federal program's financing through the  
673 Health Care Trust, the Trust will seek to ensure that participants eli-  
674 gible for federal program coverage receive access to care and cov-  
675 erage equal to that of all other Massachusetts participants. It shall do  
676 so by (a) paying for all services enumerated above not covered under  
677 the relevant federal plans; (b) paying for all such services during any  
678 federally mandated gaps in participants' coverage; and (c) paying for  
679 any deductibles, co-payments, co-insurance, or other cost sharing  
680 incurred by such participants.

681 Section 19. Establishment of the Health Care Trust Fund.

682 In order to support the Trust effectively, there is hereby estab-  
683 lished the health care trust fund, hereinafter the Trust Fund, which  
684 shall be administered and expended by the executive director of the  
685 Trust subject to the approval of the board. The Fund shall consist of  
686 all revenue sources defined in section twenty one, and, all property  
687 and securities acquired by and through the use of monies deposited  
688 to the Trust Fund and all interest thereon less payments therefrom to  
689 meet liabilities incurred by the Trust in the exercise of its powers  
690 and the performance of its duties under this chapter.

691 All claims for health care services rendered shall be made to the  
692 Trust Fund and all payments made for health care services shall be  
693 disbursed from the Trust Fund. The executive director shall from  
694 time to time requisition for said Trust Fund such amounts as the  
695 executive director deems necessary to meet the Trust's current oblig-  
696 ations for a reasonable future period.

697 Section 20. Purpose of the Trust Fund.

698 Amounts credited to the Trust Fund shall be used for the  
699 following purposes:—

700 (1) to pay eligible health care providers and health care facilities  
701 for covered services rendered to eligible individuals;

702 (2) to fund capital expenditures for eligible health care providers  
703 and health care facilities for approved capital investments in excess  
704 of a threshold amount to be determined annually by the executive  
705 director;

706 (3) to pay for preventive care, education, outreach, and public  
707 health risk reduction initiatives, not to exceed 5% of Trust income in  
708 any fiscal year;

709 (4) to supplement other sources of financing for education and  
710 training of the health care workforce, not to exceed 2% of Trust  
711 income in any fiscal year;

712 (5) to supplement other sources of financing for medical research  
713 and innovation, not to exceed 1% of Trust income in any fiscal year;

714 (6) to supplement other sources of financing for training and  
715 retraining programs for workers in the health care sector displaced as  
716 a result of administrative streamlining gained by moving from a  
717 multi-payer to a single payer health care system, not to exceed 2% of  
718 Trust income in any fiscal year:— provided, however, that such  
719 funding shall end June 30 of the third year following full implemen-  
720 tation of this chapter;

721 (7) to fund a reserve account to finance anticipated long-term cost  
722 increases due to demographic changes, inflation or other foreseeable  
723 trends that would increase Trust Fund liabilities, and for budgetary  
724 shortfall, epidemics, and other extraordinary events, not to exceed  
725 1% of Trust income in any fiscal year:— provided, however, that the  
726 Trust reserve account shall at no time constitute more than 5% of  
727 total Trust assets;

728 (8) to pay the administrative costs of the Trust which, within two  
729 years of full implementation of this chapter shall not exceed 5% of  
730 Trust income in any fiscal year. Unexpended Trust assets shall not be  
731 deemed to be “surplus” funds as defined by Chapter twenty-nine of  
732 the General Laws.

733 Section 21. Funding Sources.

734 The Trust shall be the repository for all health care funds and  
735 related administrative funds. The sources of Trust funding shall  
736 include the following:—

737 (1) All monies saved by

738 (a) simplifying administration of health care finance,

739 (b) achieving bulk purchase discounts on pharmaceuticals and  
740 medical supplies, and

741 (c) early detection and intervention for health problems through  
742 timely, universally available primary and preventive care;

743 (2) All monies the Commonwealth currently appropriates to pay  
744 for health care services or health insurance premiums, including but  
745 not limited to, all current state programs which provide covered ben-  
746 efits and appropriations to cities, towns and other governmental sub-  
747 divisions to pay for health care services or health insurance

748 premiums; provided, however, that the Trust shall then assume  
749 responsibility for all benefits and services previously paid for by the  
750 Commonwealth with these funds. All current state health care pro-  
751 grams which provide covered benefits shall be included in this  
752 requirement. The executive director shall seek from the Legislature a  
753 contribution for health care services that shall not decrease in rela-  
754 tion to state government expenditures of health care services in the  
755 year that this chapter is enacted. (3) All monies collected by cities,  
756 towns and other governmental subdivisions to pay for health care  
757 services or health insurance premiums; provided, however, that the  
758 Trust shall then assume responsibility for all benefits and services  
759 previously paid for by those governmental subdivisions with these  
760 funds.

761 (3) All monies collected by cities, towns and other governmental  
762 subdivisions to pay for health care services or health insurance pre-  
763 miums; provided, however, that the Trust shall then assume respon-  
764 sibility for all benefits and services previously paid for by those  
765 governmental subdivisions with these funds.

766 (4) All monies the Commonwealth receives from the federal gov-  
767 ernment to pay for health care services or health insurance pre-  
768 miums; provided, however, that the Commonwealth shall then  
769 assume responsibility for all benefits and services previously paid by  
770 the federal government with these funds. The Trust shall seek to  
771 maximize all sources of federal financial support for health care  
772 services in Massachusetts. Accordingly, the executive director shall  
773 seek all necessary waivers, exemptions, agreements, or legislation, if  
774 needed, so that all current federal payments for health care shall,  
775 consistent with the federal law, be paid directly to the Trust Fund. In  
776 obtaining the waivers, exemptions, agreements, or legislation, the  
777 executive director shall seek from the federal government a contri-  
778 bution for health care services in Massachusetts that shall not  
779 decrease in relation to the contribution to other states as a result of  
780 the waivers, exemptions, agreements, or legislation.

781 (5) All monies collected from taxes imposed on items that con-  
782 tribute to increased health care costs. Surtaxes, to be determined by  
783 the Legislature, in consultation with the executive director of the  
784 Trust, shall be imposed on products and facilities to the extent that

785 they can be determined to contribute to the health care costs of the  
786 Commonwealth. These may include, but shall not be limited to:—  
787 alcohol, gasoline, firearms, and facilities operating in the Common-  
788 wealth that generate air and/or water pollution.

789 (6) All monies collected through payment by all employers in the  
790 Commonwealth of a Health Trust premium, based on their payroll,  
791 starting with the enactment of the benefit plan of the Trust, as deter-  
792 mined by the Trust in consultation with the Department of Revenue.  
793 The amount of this premium shall be in line with, or less than, the  
794 average contributions that employers make toward employee health  
795 benefits as of the effective date of this act, adjusted to a rate less  
796 than national health care inflation or deflation. The premium shall be  
797 collected through the Department of Revenue for deposit in the Trust  
798 Fund.

799 Any employer which has a contract with an insurer, health serv-  
800 ices corporation or health maintenance organization to provide  
801 health care services or benefits for its employees, which is in effect  
802 on the effective date of this section, shall be entitled to an income  
803 tax credit against premiums otherwise due in an amount equal to the  
804 Trust fund premium due pursuant to this section.

805 Any insurer, health services corporation, or health maintenance  
806 organization which provides health care services or benefits under a  
807 contract with an employer which is in effect on the effective date of  
808 this act shall pay to the Trust Fund an amount equal to the Health  
809 Trust premium which would have been paid by the employer if the  
810 contract with the insurer, health services corporation or health main-  
811 tenance organizations were not in effect. For purposes of this  
812 section, the term “insurer” includes union health and welfare funds  
813 and self-insured employers.

814 An employer may agree to pay all or part of the employee’s  
815 Health Trust premium imposed by the provisions of this section.  
816 Such payment shall not be considered income for Massachusetts  
817 income tax purposes.

818 (7) All monies collected through payment of a Health Trust pre-  
819 mium by all individuals and families in the Commonwealth. Starting  
820 with the enactment of the benefit plan of the Trust, families and indi-  
821 viduals receiving covered benefits under the Trust shall contribute  
822 premiums on a sliding scale as determined by the Trust in consulta-  
823 tion with the Department of Revenue. There shall be no premiums

824 for families or individuals with income below three hundred percent  
825 of federal poverty level guidelines. The premium for employed  
826 workers shall be negotiated to be less than the amount such an indi-  
827 vidual or family would pay through an employer or private insurance  
828 plan for a comparable benefits package. The premium shall be col-  
829 lected through the Department of Revenue for deposit in the Trust  
830 Fund.

831 (8) The Trust shall retain:—

832 (a) all charitable donations, gifts, grants or bequests made to it  
833 from whatever source consistent with state and federal law;

834 (b) payments from third party payers for covered services ren-  
835 dered by eligible providers to non-eligible patients but paid for by  
836 the Trust;

837 (c) income from the investment of Trust assets, consistent with  
838 state and federal law.

839 (9) All monies from collateral sources of payment for health care  
840 services. It is the intent of this act to establish a single public payer  
841 for all health care in the Commonwealth. However, until such time  
842 as the role of all other payers for health care has been terminated,  
843 health care costs shall be collected from collateral sources whenever  
844 medical services provided to an individual are, or may be, covered  
845 services under a policy of insurance, health care service plan, or  
846 other collateral source available to that individual, or for which the  
847 individual has a right of action for compensation to the extent per-  
848 mitted by law.

849 As used in this section, collateral source includes all of the  
850 following:—

851 (a) insurance policies written by insurers, including the medical  
852 components of automobile, homeowners, and other forms of insur-  
853 ance;

854 (b) health care service plans and pension plans;

855 (c) employers;

856 (d) employee benefit contracts;

857 (e) government benefit programs;

858 (f) a judgment for damages for personal injury;

859 (g) any third party who is or may be liable to an individual for  
860 health care services or costs;

861 As used in this section, collateral sources do not include either of  
862 the following:—

863 (a) a contract or plan that is subject to federal preemption;

864 (b) any governmental unit, agency, or service, to the extent that  
865 subrogation is prohibited by law.

866 An entity described as a collateral source is not excluded from the  
867 obligations imposed by this section by virtue of a contract or rela-  
868 tionship with a governmental unit, agency, or service.

869 The executive director shall attempt to negotiate waivers, seek  
870 federal legislation, or make other arrangements to incorporate collat-  
871 eral sources in Massachusetts into the Trust.

872 Whenever an individual receives health care services under the  
873 system and s/he is entitled to coverage, reimbursement, indemnity,  
874 or other compensation from a collateral source, s/he shall notify the  
875 health care provider or facility and provide information identifying  
876 the collateral source, the nature and extent of coverage or entitle-  
877 ment, and other relevant information. The health care provider or  
878 facility shall forward this information to the executive director. The  
879 individual entitled to coverage, reimbursement, indemnity, or other  
880 compensation from a collateral source shall provide additional infor-  
881 mation as requested by the executive director.

882 The Trust shall seek reimbursement from the collateral source for  
883 services provided to the individual, and may institute appropriate  
884 action, including suit, to recover the costs to the Trust. Upon  
885 demand, the collateral source shall pay to the Trust Fund the sums it  
886 would have paid or expended on behalf of the individuals for the  
887 health care services provided by the Trust.

888 If a collateral source is exempt from subrogation or the obligation  
889 to reimburse the Trust as provided in this section, the executive  
890 director may require that an individual who is entitled to medical  
891 services from the collateral source first seek those services from that  
892 source before seeking those services from the Trust.

893 To the extent permitted by federal law, contractual retiree health  
894 benefits provided by employers shall be subject to the same subroga-  
895 tion as other contracts, allowing the Trust to recover the cost of serv-  
896 ices provided to individuals covered by the retiree benefits, unless  
897 and until arrangements are made to transfer the revenues of the ben-  
898 efits directly to the Trust.



899 Default, underpayment, or late payment of any tax, premium, or  
900 other obligation imposed by the Trust shall result in the remedies  
901 and penalties provided by law, except as provided in this section.

902 Eligibility for benefits shall not be impaired by any default,  
903 underpayment, or late payment of any tax, premium, or other obliga-  
904 tion imposed by the Trust.

905 Section 22. Insurance reforms.

906 Insurers regulated by the division of insurance are prohibited  
907 from charging premiums to eligible participants for coverage of  
908 services already covered by the Trust. The commissioner of insur-  
909 ance shall adopt, amend, alter, repeal and enforce all such reasonable  
910 rules and regulations and orders as may be necessary to implement  
911 this section.

912 Section 23. Health Trust regulatory authority.

913 The Trust shall adopt and promulgate regulations to implement  
914 the provisions of this chapter. The initial regulations may be adopted  
915 as emergency regulations but those emergency regulations shall be  
916 in effect only from the effective date of this chapter until the conclu-  
917 sion of the transition period.

918 Section 24. Implementation of the Health Care Trust.

919 Not later than thirty days after enactment of this legislation, the  
920 governor shall make the initial appointments to the board of the  
921 Massachusetts Health Care Trust. The first meeting of the trustees  
922 shall take place within sixty days of enactment of this legislation.

923 The Trust shall complete its period of transition within three years  
924 of enactment of this legislation. Full implementation of the benefit  
925 plan of the Trust shall be completed within five years of enactment  
926 of this legislation.